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THE SOVIET VIEW OF INTERNATIONAL LAW

A lecture delivered
at the Naval War College
6 September 1961

by

Professor O.J. Lissitzyn

When we begin the study of international law, we soon come to realize that it is, indeed, a useful instrument in our relations with many other states. Admiral Austin and Admiral Mott made that quite clear in their talks yesterday, but the question probably arises in the minds of most of you: Does it do any good at all to talk about international law when it comes to dealing with the Soviet Union and its allies? Can we expect them to pay heed to any rules of international law, or to carry out any obligations that they may assume? Indeed, is there anything in common in their attitude toward international law and ours? Or is the gap so great that there is no place at all for international law in the relations between the two sides in the cold war? Sometimes one encounters extreme views on these questions. On one hand, some people seem to assume that there is no significant difference between the Soviet and the Western attitudes—that we can expect international law to operate in the relations between the Soviet Union and other countries pretty much the same as it operates in the relations of the noncommunist states among themselves. This is perhaps more commonly encountered nowadays in foreign countries, especially the so-called neutralist nations, than it is in the United States. At the other extreme there is the view, perhaps more commonly held in the United States, that international law is virtually irrelevant to our relations with the Soviet Union and the Soviet bloc

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in general. Sometimes this view takes the form of denial of a universal international law which is binding on both sides in the cold war. Sometimes this view is associated with the impression that the Soviets are either completely ignorant, or completely contemptuous of international law. There is also the notion that the Soviet Union can never be expected to comply with international law except when it is to their advantage to do so, while in the West, particularly in the United States, international law is always obeyed. I suggest that the truth, as is often the case, is somewhere between these two extreme views.

At this point perhaps we might digress a little and ask ourselves; What do we mean by universality of a system such as the system of international law? Let me suggest that there are three different levels at which we can discuss universality in connection with international law. First, the verbal level; second, the level of action; and third, the level of motivation. Let me speak about the specific attitudes on each of these levels.

Now on the verbal level—that is, the level of words—the Soviets purport to accept the existence and binding force of international law in the relations between the communist and the noncommunist world. As a matter of fact, they make it a point in public pronouncements to stress international law and its study. As far back as October 5, 1946, shortly after the end of the Second World War, the Central Committee of the All-Union Communist Party directed that special attention be given to the study of international law in their institutions of higher learning, and indeed, international law courses are given by many Soviet university law faculties.

There is a growing flood of Soviet publications on international law, including textbooks, books of collections of documents and other source materials, monographs on many specialized aspects of

international law, and numerous articles in periodicals. Sometimes in these writings, international law is said to be "an attribute of culture and civilization" and an indispensable condition of modern international relations. Four years ago a Soviet Association of International Law was set up which became a branch of the world-wide International Law Association and which publishes a Soviet yearbook of international law. The president of this association, Professor Gregory Tunkin, is also legal adviser of the Soviet Foreign Office. Three years ago he gave some lectures in English at the Hague Academy of International Law in the Netherlands, in which he stressed the relation of international law to peaceful coexistence. Tunkin is probably today the leading Soviet authority in the field of international law, and he is a very intelligent man. He speaks well and presents the Soviet point of view with relative moderation and in terms which do not always seem to be too different from our traditional Western terms. Nevertheless, as I shall point out later, he, too, like all other Soviet writers and speakers, while stressing the importance and universality of international law, finds it necessary and desirable to point out certain special attitudes and approaches. International law is very frequently appealed to by the Soviet Union in diplomatic notes, in debates at international conferences, and especially in the United Nations. As a matter of fact, I am told by people who have been close observers of what is going on in the United Nations, that the Soviet representatives are perhaps more and more stressing legal arguments, and are gaining some attention, especially from people coming from the so-called uncommitted or neutralist nations, or the new nations.

International law is also mentioned in Soviet legislation. Finally, I will conclude by quoting Khrushchev himself. Just before he came to the United States in 1959 to see President Eisenhower and to make a tour of our country, he said, in a domestic

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speech: "We are well aware that without observance of the standards of international law, and without the fulfillment of the undertakings assumed in relations between states, there can be no trust, and without trust there can be no peaceful co-existence." Well, so far so good. It seems that the Soviets, at least on the verbal level, accept the binding force of international law, its reality and its importance; but even on this verbal level this acceptance is not unqualified. All through the Soviet writings runs the thread of a claim of the right to reject any part of international law which does not fit in with Soviet policy. This was perhaps most boldly stated by Professor Kozhevnikov, who later became, and was for several years, the Soviet Judge of the International Court of Justice. In a book written in 1948 called *The Soviet State and International Law*, which was perhaps the most representative and most outspoken book on international law written by a Soviet professor in the late Stalin period, he said, "Those institutions of international law which can facilitate the execution of the stated tasks of the USSR are recognized and applied by the USSR, and those institutions which conflict in any manner with these purposes are rejected by the USSR."

Now, other Soviet writers rarely put it in quite this blunt fashion, especially since the death of Stalin, when there has been a certain note of moderation in some of the writings. This claim is put in much milder terms. But basically there seems to be very little difference between what Kozhevnikov said, and what was said in 1958 in the Hague lecture by Tunkin, whom I have already mentioned as the legal adviser to the Soviet Foreign Office, and one of the most prominent of the Soviet international lawyers. Now as I said, Tunkin speaks in a voice of relative moderation and in terms which don't sound too strange to Western ears, but what he said about international law and co-existence was substantially this: (I have no convenient quotation here.) He spoke of the international law of our times as resting on agreement of

the two sides in the cold war. He even called it, in a section heading of his lectures as printed, "the new doctrine of agreement." What it amounts to is that only those rules are binding on the Soviet Union, and also on the noncommunist nations, which are accepted by both, either through express agreement, that is, by treaties, or by tacit agreement, that is, customary international law. In this connection, I may add that Soviet writers generally regard treaties as the most important source of international law; they admit that customary international law exists, and that custom is a source of law, but they stress that in modern times treaties are more important. This, of course, happens to coincide with Soviet interest, since customary law—large parts of it—was established long before the communist regime in Russia came into existence. There is little the Soviets can do about changing these customs. Sometimes they have a chance to make a change or to throw their weight in the direction of a change which they desire, of course, but nevertheless much of the customary international law is old and they didn't have anything to say about its coming into being. Treaties are something which they can agree to or not agree to, and if there is a treaty they don't want to agree to, well, it's not binding on them. So they prefer to deal with international law primarily in terms of treaties which are expressly agreed upon. So then, the Soviet writers bluntly or more mildly say that the Soviet Union may reject certain parts of international law and that it is bound only by those parts which it accepts. I must point out, however, that in fact Soviet writers specify very few rules which they reject. As a matter of fact, some parts of the standard text used in Soviet universities on international law sound rather like recitals of rules which are well known in the West, and there is nothing new. Some other parts, to be sure, do present new points of view. Of course, there are certain rules which the Soviets interpret in a way different from the interpretation given the same rules by the United States: for example, this is true

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of the rules concerning the width of territorial waters, certain rules concerning the sovereign immunity of states, and so on. Differences in interpretation of rules of international law, of course, are not new, and such differences exist among noncommunist countries. They existed long before the communist regimes appeared, so that in itself, they are not terribly significant.

There's another point, however, which is made by some Soviet writers; not as constantly as the point about accepting or rejecting certain parts of international law, but nevertheless, it's a point well worth mentioning because it coincides with certain doctrines in the field of politics and history. Shurshalov, who is a young Soviet writer on the law of treaties, has emphasized in one of his books that treaties are valid only so long as the objective historical conditions in which they were made continue to exist. There are some hints of the same doctrine being extended not only to treaties, but to customary rules. In other words, history, according to this view, is not static; it's dynamic; it's moving; it's developing; what may be good today may become obsolete tomorrow, and this, as I shall point out later, reflects the basic Soviet interpretation that the history of our times has changed in the direction of greater power being developed and exercised by the communist governments. But this doctrine that Shurshalov advocates, of course, does suggest that not only are they free to accept or reject international law at the starting point, but that they may later say, "Ah, we accepted this rule, yes, but the objective conditions of historical development have now made this rule obsolete."

Another point on which they depart, even in words, from universality is that they do claim that not only can they reject those rules which they don't like, but they also claim and take pride in claiming that they have been instrumental in introducing new principles into international law; for instance, such

principles as self-determination, nonaggression and nonintervention. They point to earlier Soviet pronouncements immediately after the October Revolution, in which these principles were proclaimed to the world, and they say that these are now accepted, or on the way to being accepted, universally. You, of course, wonder if they themselves live up to these principles, and this I will mention later on.

Also, there is the claim that a new socialist international law is being created in the relations between the socialist states, so-called—the states ruled by the Communist Party—but when it comes to specific details of this new socialist international law, they are rather vague, and, as a matter of fact, if one looks at treaties between members of the Soviet bloc, one often finds an amazing similarity between such treaties and treaties between Western states; for instance, treaties on the status of forces—that is, on jurisdiction over members of foreign armed forces stationed in a country. As we know, we have many such agreements, the most important of which is the NATO Status of Forces Agreement. The Soviets have troops stationed in certain European countries, and they have also made agreements which in large part seem to be almost copied from ours. There are some differences, but the treaties are amazingly similar. The same is true of some treaties on consular relations between communist states.

So, on this matter of new socialist international law emerging in the relations between the socialist states, it is a little unclear just what is new, although they sometimes stress the principle of proletarian solidarity, proletarian internationalism, etc. But these sound more like political, rather than legal principles. And even though they do claim, with some pride, that they are developing this new socialist international law, they, however, hasten to reaffirm that this does not mean that there is no universal international law. They say, "Yes, we have

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certain new principles in relations with socialist states, but that does not mean that there is no body of rules binding on all states—capitalist and communist as well."

So on the verbal level they do recognize, or are forced to admit, the universality of international law. Well, what about the second level, the level of action? Do they actually follow international law, or do they completely ignore it? Now at this point I would like to digress again and say that in general any kind of relations between two or more nation-states would be impossible without some mutually recognized rules of behavior, recognized not only verbally, but on the level of action. So long as both sides desire to have some kind of relations, the sanction for the nonobservance of the rules governing such relations is the impairment of the relations and of the advantages of such relations. For instance, take the most elementary example: both the Soviet Union and the United States at present choose to maintain diplomatic relations with each other. We have an embassy in Moscow; they have an embassy in Washington, and the same, of course, is true not only of the United States and the Soviet Union, but many other so-called capitalist countries and the Soviet Union. On the other hand, we do not choose to maintain diplomatic relations with communist China; there is a difference here. But so long as we do choose to maintain diplomatic relations with the Soviet Union, and so long as this desire is reciprocal, relations are maintained. But in order to have diplomatic relations, you have to have some minimal rules about the people who are diplomats. These are the rules which are commonly called diplomatic privileges and immunities. You couldn't carry on diplomatic relations on a fairly regular, functioning basis if rules of diplomatic immunity were completely disregarded. And so, we do find that in the relations between the Soviet Union and the United States, diplomatic immunities, although occasionally disregarded, or occasionally

argued about in specific situations or incidents, are by and large, observed on the level of action, as well as the level of words.

There are certain other areas of international law in which this is largely true although there are always some qualifications and exceptions. It is largely true of the freedom of the seas. As Admiral Mott said yesterday, there may be a Contingent Plan for certain reprisals against the Soviet Union in case it starts a blockade of Berlin or misbehaves in some other fashion. But so long as it doesn't do so we generally respect its rights to navigate the high seas, to fly over the high seas, and again there is reciprocity. But you might say, "Well, what about the RB-47?" This is one of the exceptions that I have in mind. But, as Admiral Mott pointed out, if and when we do have some kind of a pacific blockade, or whatever you call it, whereby we would try to interrupt the shipping of the Soviet Union, it might quickly become a kind of a limited naval war, which in turn might turn into or degenerate into an all-out war. But so long as we don't want that to happen, and we have no specific reason for denying freedom of the seas to them and vice versa, we continue by and large to observe the freedom of the seas, and in this case when I say *we* I mean both sides.

There are certain other fields. There is the field of trade, of communications. You can send a letter to Moscow by ordinary mail and get a reply by ordinary mail, etc. The Soviet Union participates in a number of agreements for the conservation of maritime resources: whales, fish, etc. There is a large number of areas which I could go on enumerating, in which there is an actual "give and take" and a reasonable amount of co-operation and observance of international law between the two sides. The Soviet Union has been a party to some 3,000 multilateral and bilateral treaties over the course of its existence. The United States and the Soviet Union today are both parties to

some 70 multilateral treaties, and, of course, we have also some bilateral agreements. The Soviet Union takes an active part in conferences designed to develop and codify certain parts of international law, protecting, of course, its own interests. A conference on the law of the sea which was held in Geneva in 1958, and which developed the four conventions on the law of the sea, witnessed a very active participation by the Soviet Union and the bloc countries, and the product of the conference, the four conventions, have certain marks on them of this participation. The Soviet Union participated again in 1960 in another conference on the law of the sea, which failed to reach an agreement because the Soviet, among other states, insisted on rejecting the 3-mile limit and also a compromise solution that the United States supported, a 6-mile limit for fishing purposes.

Last spring, both the Soviet Union and the United States, as well as most other nations of the world, participated in a conference to codify the law of diplomatic privileges and immunities, which was held in Vienna and which produced a convention, which the United States has signed. And here again, on this level of making of new conventions on international law, the Soviet Union participates. Of course, it goes without saying that violations of international law, of treaties as well as customary international law, by the Soviet Union, have been numerous. A statistical compilation would probably be impossible and meaningless, because it is not only a matter of counting specific violations, which is difficult enough in itself, but is also a matter of their relative significance or importance. It would be, of course, a distortion of reality, to say that only the Soviet Union violates international law, while the Western nations never do. It is well known that international law throughout its existence for some 300 or 400 years has been violated by various nations. Here again, it cannot be said that you can put down in some sort of table all the numerous violations. It

would be impossible to compile such a table. Of course, it has always been recognized that the observance of international law has been far from perfect. Nevertheless, the Soviet conduct in this respect has given the widespread impression, which is probably justified, that violations of international law by the Soviet Union are particularly frequent and particularly threatening to the maintenance of international stability. This impression has been reinforced by the Soviet resort to international law as a propaganda slogan or a set of slogans such as self-determination, nonintervention, nonaggression, sovereignty, and equality. Now, these slogans appeal; they appeal especially to the smaller nations, the weaker nations, those nations that are emerging or want to emerge from a colonial status, or those nations that have felt, as some Latin American countries have for many years, that they were under the pressure of the stronger powers, especially the United States. These slogans are appealing, and they are appealing to men and women of good will in the world everywhere. They sound so nice.

Now here again, of course, it would be false to say that the use of legal doctrines as slogans for propaganda purposes is something which the Soviet Union invented. Of course, such use existed to some degree before the Soviet Union was ever heard of. Nevertheless, the manipulation of high-sounding international law doctrines as propaganda slogans has reached new heights in Soviet practice. As symbols of rectitude, these are slogans which stir up the emotions by making it appear somehow that the Soviet Union is on the side of the angels, the side of good. This manipulation has been, to those observers who are unprejudiced I think, but who are knowledgeable, particularly blatant and seemingly cynical, especially when we consider such slogans as intervention and self-determination. What about Hungary? And Hungary is only one of the most obvious examples of the Soviet disregard of these very principles, as today, of

course, the United States has tried to make quite clear. What about Soviet behavior in Germany? Is it consonant with the principle of self-determination? And so it goes. There is quite a gap between Soviet words and Soviet actions.

There's another Soviet trait in the area of international law which I think also should be kept in mind on the level of action—that the Soviet Union has almost invariably rejected any proposal, any institution, that provides for third party adjudication, or third party settlement of disputes. It has not submitted any of its disputes to the International Court of Justice, for instance, or to arbitration, except some very minor commercial disputes. We have time and again proposed to them to submit, for instance, our claims for our aircraft shot down by Soviet forces, the latest example being the RB-47, to adjudication by the International Court of Justice, but they have consistently refused to do so. And again this is not inconsistent with their basic outlook on the world; it is, as a matter of fact, quite consistent, because, they say, in the relations between capitalist and communist theory, who can be impartial? The International Court of Justice, they say, is loaded with capitalists. A large majority are capitalist lawyers. An international court, of course, decides by majority; there is no veto in it. There is no rule of unanimity. In another area, we see this quite clearly today in Soviet proposals concerning the reorganization of the United Nations on a so-called tripartite basis, the Soviet bloc, the Western bloc, and the uncommitted countries being the three parts, each of which would have in effect a veto power which the Soviets already enjoy in the Security Council as we do; but this would amount to veto power in the General Assembly where today there is no rule of unanimity, a two-thirds majority being sufficient to pass a resolution on questions of importance.

But perhaps the greatest difference between the Soviet and the Western worlds in relation to international law—the difference which perhaps is of most significance in terms of universality of international law—is the difference on the third level which I mentioned, namely, that of motivation. Now, here again let me point out that I am not claiming that differences in motivation in respect to the observance of international law have not existed and do not exist among the noncommunist countries. Of course, they do. As a matter of fact, this is an area in which further studies are needed to shed more light on why certain countries and governments in certain situations observe international law while others do not, and what are the attitudes toward the observance of international law by what my friend Professor McDougal has called the governing elites of various nations—the decision-makers, as well as the masses. All of this is an area which has not been properly studied, but when we look at Soviet ideology we find certain peculiar aspects which find no counterpart in the Western world. What are these? Here again I must digress into the more general field of Soviet ideology.

Basic in the Soviet interpretation of history is the doctrine of the class struggle. History is viewed as a product of the class struggle. Now what does class struggle mean? They believe that all modern societies are governed by a particular social class and that in all so-called capitalist countries the government is in the hands of the capitalists, that is, the owners of the means of production—shareholders of industries and managers of industries who exploit the workmen; and for this purpose—the purpose of assuring this exploitation—were created institutions of private property and law. Law is not used as an impartial system of justice; it is used as an instrument of the policy of the ruling class. They say, furthermore, that there is a basic, unsurmountable antagonism between the interests of the exploiting class, the capitalists, and the interests of the proletariat, the workmen, which permits of no basic

reconciliation. The only way that change can be brought about is to overthrow the rule of the capitalists and to substitute for it government by the workers, who thereby become the ruling class, and, of course, the communists are regarded as leaders of the working class. And so there are two kinds of states in the world today, those ruled by the capitalists, and those ruled by the workers and led by the Communist Party.

Now these two kinds of states both have their own separate systems of law. In each kind of state the law is an instrument of the particular ruling class and is directed primarily at the other ruling class, namely, to suppress it and exploit it, or else, as in the case of the working class, to root out the remnants of capitalism and to maintain the power of the Soviet state. Now, if that is true, then how can there be a universal international law? It would be either an instrument of the policies of the capitalists or an instrument of the policies of the working class led by the Communist Party, but how can there be a single international law which will represent the interests of both?

This is a theoretical problem which has given them continual trouble, and they are still writing articles trying to make suggestions why this is possible, how to have a universal single international law despite differences in the class basis of the two systems. But whatever may be the theoretical difficulties, the basic ideology is to regard law as an instrument of the ruling class and to look forward to a Utopian time in the future where all law would disappear in a classless society, where all organized coercion by the state would be abolished and people would live in sweetness and peace without law. That's the Utopian vision. In the meantime, however, there is this struggle going on between the capitalists and the workers—a world-wide struggle. Ultimately the workers are going to win—this has been historically determined, according to the communists. But as long

as this struggle lasts, there may be temporary accommodation necessary. This is what they call the period of transition, and this temporary accommodation may well call for peaceful relations with the capitalist states, an avoidance of extreme friction which might lead to war which they don't want to see at this particular time because they may be too weak or because the war may be too destructive. For these purposes, international law is accepted as an instrument to make possible this temporary coexistence in the period of transition. But, eventually, of course, they believe that they will win, and that this temporary accommodation is not going to be lasting.

Now what is the meaning of this? The meaning for motivation of international law observance is that they do not believe that international law is part of a system, a continuing system of stability in international relations. There is no real community of interest between communist and noncommunist states, according to their doctrine. The two worlds are inescapably hostile to each other. Now, there is a difference between that and the traditional Western acceptance of the system of states as an essentially permanent, stable system. That doesn't mean that it's unchangeable, but it is a system which we don't look forward to seeing disappear in the very near future as a result of ourselves subverting it. For hundreds of years a certain system has existed and has come to be accepted as stable and, though subject to change, not subject to violent destruction in the near future. This gives, in the West, a different perspective on the observance of international law. When you believe the system is stable, you attach more importance to such matters as good faith, stability, reciprocity, considerations of confidence, value of property—what you do today, ten or twenty years from now may influence action toward you. These elements are much weaker in the Soviet attitude toward international law because the Soviets reject the very idea of lasting accommodation and a single world system, and therefore

while they accept international law as an instrument, and a very useful instrument, to prevent the more acute friction with the capitalist world, they also view international law, as I pointed out, as a set of slogans which can be used in a way which is hostile to the existing system, although the slogans themselves as properly interpreted and applied are not.

Now, these two uses of international law, the propaganda use on the one hand, and the actual observance of international law on the other, are basic and have been basic in the history of the Soviet Union. This reality must be always kept in mind. International law will be observed because it suits the Soviet Union for certain purposes at certain times, but it also will be used to attack the West at its weakest points psychologically by propaganda. It will also be used in some situations where the West puts too much trust in the observance of international law by the Soviet Union; such trust may be, of course, unwise.

I may also point out that there are certain characteristics of the Soviet system of society, apart from ideology, which also make for differences in the attitude toward international law. The Western society in which international law has developed over the centuries has been a pluralistic one. There are many private interests, especially business and commercial interests, which have found in international law—certain parts of it—valuable protection of their business enterprises, etc. And more generally, in a pluralistic society, lawyers appear as spokesmen for particular group interests—spokesmen who emphasize the importance of the maintenance of law as well as its development, and who thereby bring about by their actions, by their sayings, and their influence in government, a general law habit into being; that is, the habit of thinking of governmental matters in terms of legality or law rather than sheer power and expediency. In the Soviet system, there is no pluralistic

group arrangement of this kind. Everything is subordinated to the hierarchy's decision as to what is good for the system and society. As a matter of fact, lawyers as a profession have very little influence in the Soviet Union and have a very unimportant standing in society. If there is trouble with the government, of course, a lawyer normally does try to help his client, but in the area which is very important in the West, namely, civil law, there is very little to do in the Soviet Union for lawyers. Of course, there are enterprises which have lawyers writing contracts with other enterprises and that sort of thing, but this is of very minor importance compared with the role of lawyers in our highly industrialized, but still basically private enterprise, society. In the United States there are some 250,000 practicing lawyers. In the Soviet Union I don't think there are more than 10,000, but it is not only a matter of numbers, it is also the matter of their standing in society—their relation to the decision-making process. In other words, in the Soviet Union the law and the lawyer are in a much weaker position than they are in the West to influence the attitudes of the governing elite or the decision-makers, and this extends to international law because the law habits which have been developed in our domestic concerns and domestic society are psychologically apt to be carried over into the international field, and it is perhaps no historical accident that the United States and Great Britain—where, especially in the United States, lawyers have been prominent in domestic politics and domestic government—historically have stressed international law in international affairs.

The Soviet concept of morality also is ideologically different from ours and here you might say that maybe I am exaggerating, but I'm not. The Soviet writers are quite clear on this—in the period of struggle against capitalism, the highest morality means doing everything to help communism win, since communism is the great hope of humanity's future. Anything that helps the victory of communism is moral and vice versa.

Now, here again there seems to be no room for a feeling of moral obligation to obey international law. I am not saying that in the United States, or in the West in general, a feeling of moral obligation is necessarily the most important reason why international law is observed. Undoubtedly considerations of expediency do enter into it in a very large degree, but in the West, again, in a pluralistic society, there are some people at least who feel it is morally bad to break the law. In the Soviet Union this would be, with respect to international law, difficult to justify as logical and unlikely to find proper expression, although it may be privately felt. Of course, there is another difference—here in the West, or at least in the United States, we have freedom of expression, which means that when the government does something which is questionable from the standpoint of international law or morality, there are people who may criticize the government and criticize it openly in the press and public statements. In the Soviet Union this is never done. You can't find a single Soviet writing on international law or international politics in which it is admitted that the Soviet Union has ever violated international law. This is not true in the United States. You do find writings, quite a few of them, pointing to certain violations of international law by the United States; but not in the Soviet Union.

Well, now what are to be our conclusions? There are areas in which there are certain accommodations, even a certain measure of co-operation (for instance, in the conservation of fisheries) between the communist and the noncommunist world. It's possible and apparently desirable for both, so long as the policies of both sides call for the continuance of relations on a basis short of all-out war, for international law to have a part to play. Treaties have been made and continue to be made between the two sides. They may be relied upon so long as the observance of such treaties is of mutual advantage. Of course, it would

be nonsense to rely on treaties which the Soviet Union had signed and which it feels it is no longer in its interest to observe. This is a matter of careful diplomacy, of course: To reach accommodations and to formalize these accommodations in treaties, in such a way that the observance and continual existence of the accommodations and the observance of the terms of the accommodations as expressed in treaties will be to the advantage of both sides.

What about the prospects? Well, it seems to me that the basic communist attitudes toward society, history and international law, are not going to change overnight. As a matter of fact, the new draft program of the Communist Party of the Soviet Union which was published some weeks ago, is ample proof that the basic ideology remains unchanged, and perhaps even becomes more militant in certain ways. From a longer range point of view, predictions of course are difficult, but it seems to me that the outcome in this, as in many other fields, will depend on the balance of power between the two sides, and by power I do not mean just military power although I include it, but also economic power and power over public opinion. If the noncommunist world remains strong in relation to the communist world, economically, socially, as well as militarily, as generations pass, and as Soviet society assumes a more stable form, perhaps the ideology will gradually be eroded and the Soviets will settle down in their ways, and there may be a gradual softening of the hostility of the Soviet leaders toward the outside world, and therefore a greater appreciation of the long-run advantages of international law. In other words, a stable balance of power will create expectations of continued stability and therefore of continuing advantages of legal regulation of the relations between the two sides. If, on the other hand, the Soviet leaders have reason to feel that they are about to win, that the struggle is going their way, not necessarily in a military fashion for the time being, but in other ways, that they are

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continually becoming stronger economically, continually expanding their influence in the gray areas of the world, then they will be confident—they will be reassured and reaffirmed in their ideology, in their expectations of a complete triumph in a not-too-distant future. Under those conditions they are not likely to attach too much importance to international law, but on the contrary, will probably increase its function as a propaganda tool, and at the same time use the doctrines I mentioned before, that as objective conditions change, international obligations become obsolete. It is up to us, by maintaining our strength in all fields, to demonstrate the advantages, in the long run, of lasting accommodations, and eventually to bring about a greater degree of consensus between the two sides on what kind of regulation of their relations in legal terms is the most desirable.

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